

★ Roll Call Number

14-1800

Agenda Item Number

45

Date November 17, 2014

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HOLD HEARING FOR THE VACATION AND CONVEYANCE OF A SEGMENT OF EAST/WEST ALLEY RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING 215 EAST 3RD STREET TO 215 EAST 3RD STREET, LLC, FOR \$12,675

WHEREAS, on November 3, 2014, by Roll Call No. 14-1704, City Council received a recommendation from the City Plan and Zoning Commission that the segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street, hereinafter more fully described, be vacated subject to the reservation of a permanent easement upon the Property for the continued use and maintenance of any existing encroachments and public utilities now in place; and

WHEREAS, 215 East 3rd Street, LLC, is the purchaser of the real property abutting the City Right-of-Way, locally known as 215 E. 3rd Street, and has offered to the City of Des Moines the purchase price of \$12,675 for the vacation and purchase the Right-of-Way for incorporation into the adjoining property, subject to the reservation of a permanent easement upon the Property for the continued use and maintenance of any existing encroachments and public utilities now in place, and subject to zoning compliance as approved by the City's Permit & Development Center, and to compliance with a City-approved site plan, and further subject to a "No-Build Easement" prohibiting the construction of any improvements on the City Right-of-Way, except for paving; which price reflects the fair market value of the encumbered City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, 215 East 3rd Street, LLC and the City Real Estate Division have negotiated an Offer to Purchase which includes, among other terms, closing subject to the condition that 215 East 3rd Street, LLC close on the purchase and demonstrate ownership of the abutting property at 215 E. 3rd Street and all other conditions included in the City Plan and Zoning Commission recommendation; and

WHEREAS, there is no known current or future public need or benefit for the segment of the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on November 3, 2014, by Roll Call No. 14-1703, it was duly resolved by the City Council that the proposed vacation of a segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street, and the conveyance of the City Right-of-Way, be set down for hearing on November 17, 2014, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate a segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street and convey the City Right-of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.



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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a segment of east/west alley right-of-way lying south of and adjoining 215 East 3rd Street, as legally described below, and said vacation is hereby approved:

ALL THAT PART OF THE EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 4, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2112 SQUARE FEET.

3. The proposed sale of such vacated right-of-way, as legally described below, to 215 East 3rd Street, LLC for \$12,675, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the requirements of the Plan and Zoning Commission recommendation and the negotiated Offer to Purchase, is hereby approved:

ALL THAT PART OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 4, BLOCK 2, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2112 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this

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hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.


7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and copies of the other documents to the grantees.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

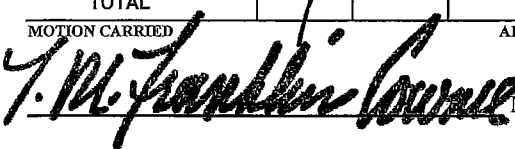
(Council Communication No. 14-536)


Cori Kuhn Coleman, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED APPROVED


T. M. Franklin, Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.


Diane Rauh, City Clerk